

#### Police Department

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Mike Denson Interim Chief of Police January 14, 2015

To: Chief Albert Vasquez

**UC Merced Police Department** 

From: Lt. Kevin McNiff

**UCSF** Police Department

Re: Administrative Investigation- OIS UC Merced

I have reviewed the following information to prepare this Administrative Investigation:

UC Merced Police Department CAD Records/ Recordings

Merced County Sheriff's Department Incident Report # 2015-0038655

Merced County Coroner's Office Report

Audiotaped recordings of Officers Lopez and interviews, conducted by the Merced County Sheriff's Homicide Unit.

Administrative Interviews Detective Kelly and I conducted at the UC Merced Police Department.

UC Merced Department of Public Safety Policy Manual, Policy # 300 Use Of Force and all subsection contained within.

UC Merced Department of Public Safety Policy Manual, Policy # 302 **Deadly Force Review** and all subsection contained within.

UC Merced Department of Public Safety Policy Manual, Policy # 306 Handcuffing and Restraints and all subsections contained within.

UC Merced Department of Public Safety Policy Manual, Policy # 310 Officer Involved Shootings and Deaths and all subsections contained within.

UC Merced Department of Public Safety Policy Manual, Policy # 312 Firearms and all subsections contained within.

## Investigation Summary:

On November 4, 2015, Detective Larry Robertson and I responded to the UC Merced Campus to assist in an investigation of an officer involved shooting which resulted in the death of the male suspect, later identified as Faisal Mohammad, OM 18, DOB Mohammad was enrolled at UC Merced as undergraduate student. Mohammad was determined to be the lone assailant in multiple stabbings on the campus prior to having been contacted by the responding UC Merced Police Officers Olaf Lopez #434 and



While driving to the UC Merced campus I received a brief description of the events in a conference call involving Lieutenant Decoloude of UC Berkeley Police Department and Captain Eric Partika of UCSF Police Department. I was advised Detectives Jack Kelly and Jonathan Caires of UC Berkeley Police Department were responding to provide additional investigative assistance.

Upon our arrival at UC Merced at approximately 1615 hours, I contacted Lieutenant Cho Her at the Incident Command Post. I was briefed on the current situation which had stabilized and we were introduced to the Merced County Sheriff Department personnel on scene. I learned the criminal investigation would be conducted by the UC Merced Police Department. The Merced County Sheriff's Department would investigate the officer involved shooting portion and we were tasked to complete the administrative investigation.

I learned both Officer Lopez and were represented by a PORAC attorney, and had provided voluntary statements to Merced County Sheriff's Department Homicide Unit detectives prior to our arrival. Due to our travel time we were unable to listen to those interviews as they were being conducted. We were later provided with audio recordings of those interviews. I learned Suspect Mohammad was pronounced dead at the scene by paramedics and his remains were still contained within the crime scene. Merced County Sheriff's Department Crime Scene Investigators were processing the indoor and outdoor crime scenes where the stabbing occurred and the OIS.

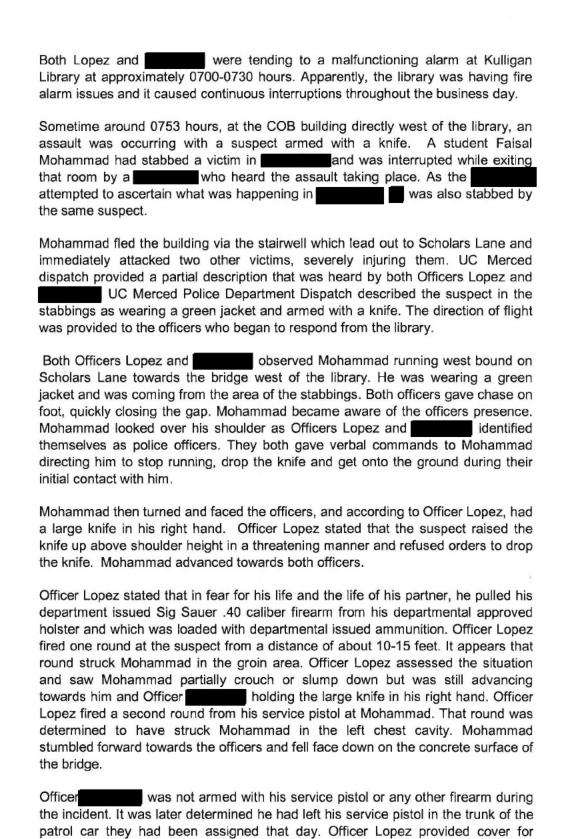
At 1715 hours, Detective Robertson and I contacted Detective Sergeant Chuck Hale, Merced Sheriff's Department Homicide Unit. We attended a debrief he conducted with the sheriff's department personnel who responded to the incident. All of the sheriff's department personnel were instructed to complete detailed supplemental reports regarding their investigation/ response. I read those reports under Merced County Sheriff's Department Case # 2015-0038655 and used them in the completion of this administrative investigation.

Detective Sergeant Hale advised it appeared Officer Lopez had fired two rounds from his service pistol which had struck Mohammad in the groin area and in the chest cavity. Several eyewitnesses had been interviewed by UC Merced police officers and Merced County Sheriff's Department deputies and those witnesses had identified Mohammad as the assailant in the multiple stabbings. Merced County deputy sheriff/coroners had located a California Identification card belonging to Mohammad on the remains. The details of that information are contained in the Merced Sheriff's Department Incident Report.

Detectives Kelly and Caires arrived at UC Merced and we were then given a "walk thru" of the crime scene by Lieutenant Her.

The following is a summary of what occurred:

On 11/4/2015, Officer Olaf Lopez #434 and were on duty at 0700 hours. Officer Lopez was on his final day of field training, in the shadow phase. At UC Merced, the shadow phase is described as the trainee in full uniform being "shadowed" by his who was in plain clothes and who primarily observed the trainees actions.



Officer as he handcuffed Mohammad. Once Mohammad was handcuffed behind his back, Officer rolled him over onto his back and checked him for the presence of a pulse and breathing. Officer Lopez immediately advised dispatch shots had been fired and Mohammad was in custody. He requested "Code Three Riggs" meaning the Merced County Ambulance and Paramedic Service. There was no other first aid provided by the officers to Mohammad. Paramedics from Riggs Ambulance service arrived on scene and pronounced Mohammad dead at the scene. Lt. Her arrived on scene and asked both officers public safety questions. He directed police and fire personnel. He became the incident commander.

When deputies from the Merced County Sheriff's Department arrived, Officer told them there were victims of the stabbings east of their location and he then requested other ambulances to address the victims. Due to items located on Mohammad it triggered a multi-agency response including bomb disposal units, the FBI JTTF Task Force and fire department Hazmat teams.

After the "walk thru" of the scene I assigned the detectives with tasks to assist in the administrative investigation.

On November 4, 2015 at approximately 1930 hours, I requested Detective Kelly call Christina Petricca of Mastagni Holstedt Law Firm. She represented both officers during the criminal investigative interviews with Merced County Sheriff's Department. We arranged to interview Officer Lopez and regarding the administrative investigation. We agreed to meet at UC Merced Police Department on November 5, 2015 at 1400 hours.

On November 5, 2015 at 1400 hours, Detective Kelly and I conducted an administrative interview with Officer Lopez. Ms. Petricca was present. The interview was conducted in accordance with POBR and audio recorded. I read Officer Lopez the Lybarger Admonishment at the request of his attorney. He then provided a statement. Officer Lopez was asked about the use of deadly force. He said he had been trained during his FTO period about the department policy. He had qualified with his duty pistol shortly after his appointment to UC Merced Police Department and assignment to the FTO program. He indicated he had prior law enforcement experience consisting of eight years with the Merced County Sheriff's Department as Deputy Sheriff.

Officer Lopez indicated he had responded to the stabbing call and spotted the suspect fleeing on foot. He said the suspect presented a clear threat to himself and Officer as well as members of the public. Mohammad advanced at the officers and did not drop the knife. Officer Lopez said he feared for his life and fired one round which struck Mohammad. He stopped, assessed the situation and since Mohammad was still armed with the knife, advancing towards him, he was a threat to his life. Officer Lopez fired a second shot which struck Mohammad. Mohammad fell to the ground. He did not fire any further rounds. After Mohammad was handcuffed he requested an ambulance for him. Officer Lopez indicated he was

aware of his backdrop and fired only to stop Mohammad from advancing and hurting him. The interview was concluded and Officer Lopez and his attorney said they were willing to meet again if questions arose during the course of this investigation.

Detective Kelly and I interviewed Officer at the UC Merced Police Department shortly after Officer Lopez's interview was over and he had time to consult with Ms. Petricca. The interview was audio recorded and conducted in accordance with POBR. He too was admonished per Lybarger. He provided a statement. He provided a statement consistent with Officer Lopez. He said Mohammad posed a clear danger to himself, Officer Lopez and members of the public. He said Officer Lopez discharged his firearm in defense of their lives. Officer agreed to meet again if administrative questions arose during this investigation.

On November 5, 2015, I assigned Detective Jonathan Caires to attend the post mortem examination of Mohammad which was conducted at the Merced County Coroner's Office, 455 East 13<sup>th</sup> Street, Merced. The results of the autopsy and examination of the clothing worn by Mohammad are consistent with the accounts provided by Officers Lopez and Mohammad sustained two gunshot wounds and a .40 caliber round was located in the body. I will order the autopsy protocol and forensic examination reports for the detailed report to follow.

It should be noted that civilian witness statements are consistent with the officer's statements and reported actions. Mohammad was a clear danger to the officers and public.

## Investigation:

On November 4, 2015 at approximately 1100 hours, I was notified of incident at the UC Merced Campus. Captain Partika notified me about a student who had stabbed people on the campus earlier that morning. The suspect was confronted by responding UC Merced Police Department officers and died as a result of a fatal "officer involved shooting." I was instructed to respond to the campus with Detective Robertson per a mutual aid request made via Chief Denson. I was advised the situation was stabilized but several law enforcement agencies were still on scene conducting the investigation.

Detective Robertson and I left our campuses and drove to our residences to pick up equipment/clothing and drove to the UC Merced Campus. We were notified two detectives from UC Berkeley Police Department were being sent to the campus to assist in the investigation of the OIS. The responding detectives from UC Berkeley Police Department were Jonathan Caires and Jack Kelly.

Upon arrival at the campus at approximately 1615 hours, we responded to the Incident Command Post as directed by UC Merced Dispatch. We contacted Lieutenant Chou Her of UC Merced Police Department. Members of the FBI JTTF

were present as were members of the Merced County Sheriff's Department, California Highway Patrol and Merced Police Department. Detectives Caires and Kelly arrived and we were given an operation briefing by Lieutenant Her.

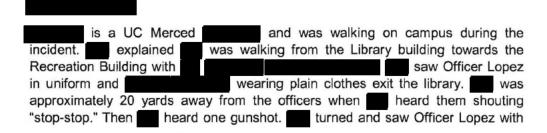
Lieutenant Her later advised me we had been assigned to conduct the Administrative Investigation. Lieutenant Her told me the request had been approved by Chief Vasquez of UC Merced Police Department, Chief Denson UCSF Police Department and Chief Bennett UC Berkeley Police Department as part of the mutual aid request/agreement. We were advised Merced County Sheriff's Department would be assisting UC Merced Police Department in the criminal investigation and would be responsible for the crime scene evidence investigation.

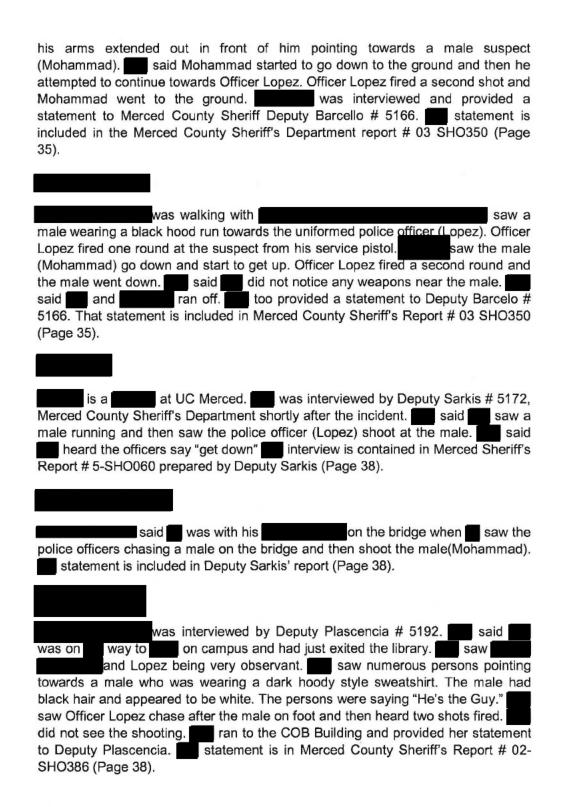
At 1715 hours, Detective Robertson and I were present when Detective Sergeant Hale of the Merced County Sheriff's Department Homicide Unit conducted a tactical debrief of Merced SO personnel who had responded to the campus. During that debrief each deputy and sergeant discussed what they had done at the scene. The sheriff's office personnel were directed by Detective Sergeant Hale to complete detailed reports before they went off duty. I learned the Merced County Sheriff's Department Report # was 2015-38655.

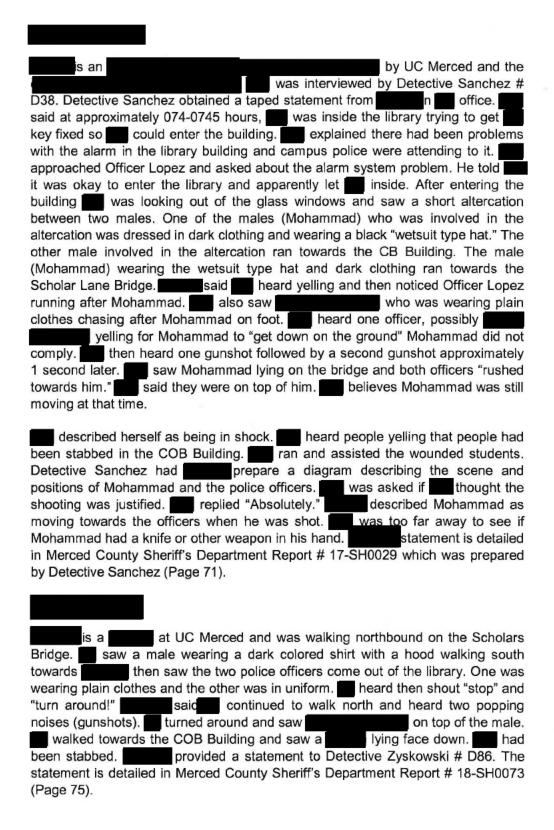
After Detectives Kelly and Caires arrived at the Incident Command Post we were all given a walk-through of the crime scenes by Lieutenant Her. Members of the Merced County Sheriff's Department CSI Team were still processing the outdoor crime scenes. Lieutenant Her walked us to Scholars Bridge. From approximately 20' away, I saw a body covered in a blue blanket still on the bridge. I then saw a hunting style fixed blade knife lying on the roadway surface near the body. I saw an expended shell casing approximately 10' from the body. There was a black backpack which was open and the contents spread out on the bridge roadway surface. The contents of the backpack appeared to be black plastic flex cuffs or zip ties, a car emergency hammer, an empty knife sheath which appeared to be the same size as the fixed blade hunting knife, and other items. Because the scene was still being measured and processed I did not get any closer to the body or the items on the bridge.

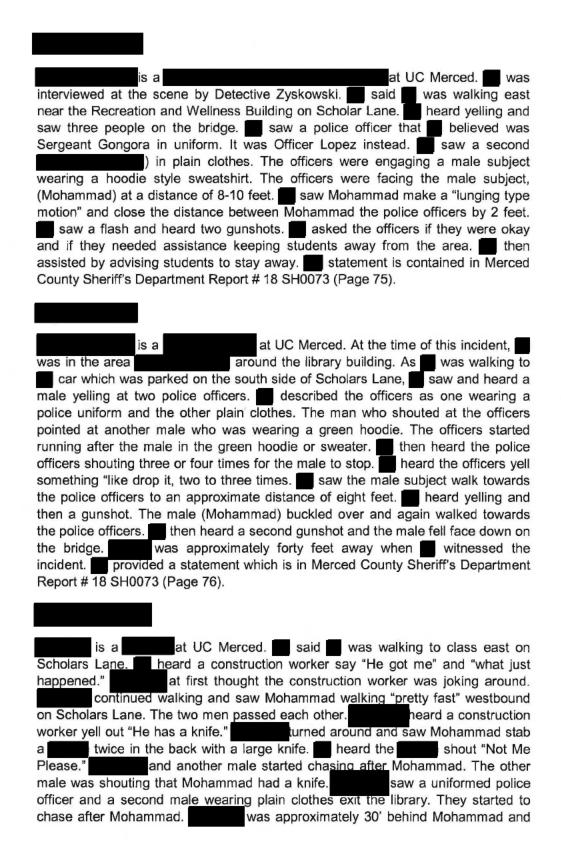
## Witness Statements:

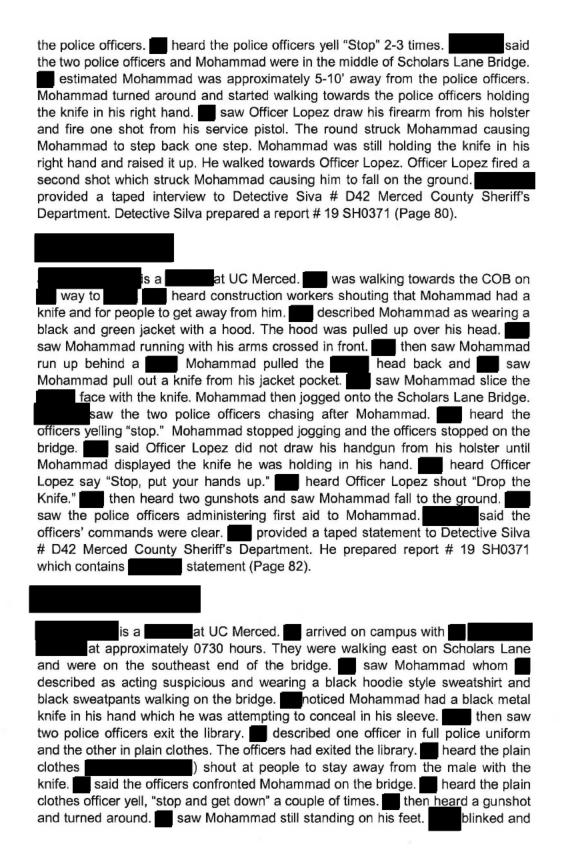
The following is a summary of the witness statements obtained by UC Merced Police Officers and Merced County Sheriff's Deputies:

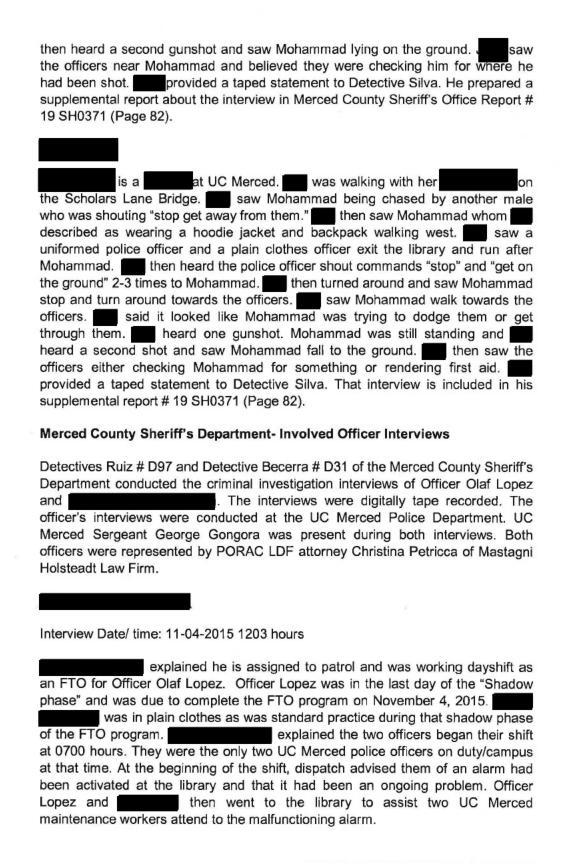


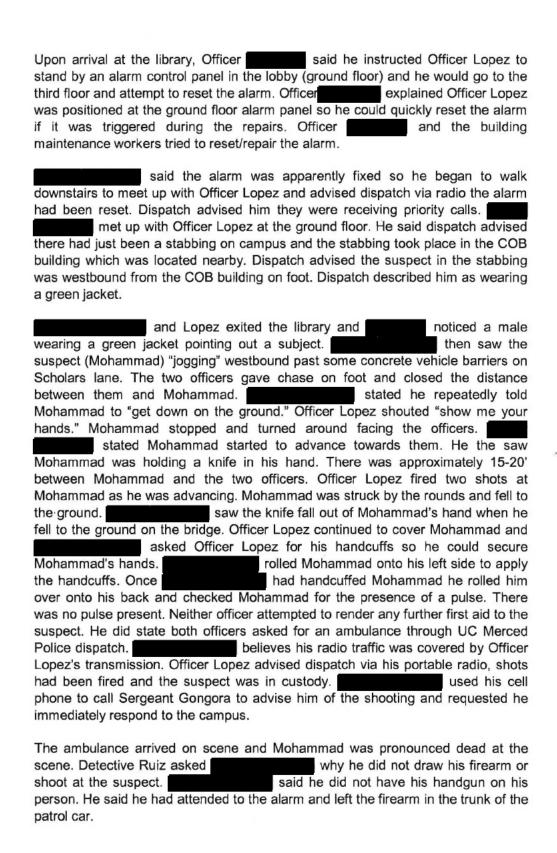


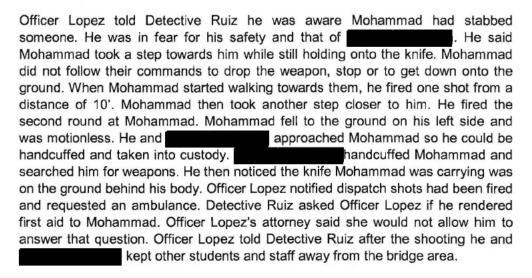












Officer Lopez was asked about his last qualification at the range and he replied September 14, 2015. He detailed how his firearm was collected and placed in a safe inside UC Merced Police Department.

Detective Becerra took photographs of the police uniform Officer Lopez was wearing during this incident. The interview of Officer Olaf Lopez is detailed in Merced County Sheriff's Department Report # 21 SH0084 (Page 88) and # 24 SH00084 (Page 93).

# Examination of Involved Officer's Department Issued Handgun and safety Equipment

I reviewed the Merced County Sheriff's Department Report # 24 SH00084 which was prepared by Detective Ruiz # D97. The examination of the handgun, a Sig Sauer brand, Model # 226, Serial number U786202, which had been issued to and deployed by Officer Olaf Lopez, revealed the following findings:

The handgun was the firearm issued by UC Merced Police Department to Officer Lopez. The handgun was loaded with ammunition issued by UC Merced Police Department. The handgun had not been modified in violation of department policies. The unloading of the handgun was conducted by Detective Ruiz and photographs were taken during each step. It appears that two shots had been fired from the handgun which is consistent with Officers Lopez and statements. The handgun was collected and placed into evidence at the Merced County Sheriff's Department.

Detective Ruiz examined the duty belt worn by Officer Lopez during the incident. In reviewing the report I found the equipment and extra handgun magazines on the duty belt were in compliance with department policies.

## Merced County Coroner's Report- Post Mortem Examination

On November 5, 2015 at 1315 hours, Dr. Mark Super (Forensic Pathologist) of the Merced County Coroner's Office conducted a post mortem forensic examination of Faisil Mohammad's remains. The autopsy was conducted at their office. Photographs of the remains were taken and a detailed autopsy was conducted. The medical findings determined Mohammad sustained two gunshot wounds. One gunshot wound was found on the left lateral side of the chest. The wound path was determined to be in a left to right, downward and front to back direction. The bullet struck internal organs and was determined to be the cause of death. That bullet was located in the right thigh and was collected as evidence.

The second perforating gunshot wound was located in the left groin. The wound path was left to right, downward and front to back. The bullet exited Mohammad's buttock and was not contained within the remains. That bullet was not recovered

As part of the Post Mortem examination, a toxicology screen was performed on blood and tissue samples collected from Mohammad's remains. There was no indication Mohammad was under the influence of alcohol or other narcotics.

The Coroner's Medical Findings and Post Mortem examination are consistent with the involved officer's statements, witness statements regarding the police officer's actions, Mohammad's actions and other physical evidence located at the scene.

### Evidence Item Found on Mohammad

During the Post Mortem Examination, a "Manifesto" apparently prepared by Mohammad was located within his outer clothing. Detective Becerra located the document which had been folded. The document or "Manifesto" details Mohammad's plan. On the back side of the document there is the following notation "20 If the other officer draws his gun then charge him; kill him or achieve Shahoaddah."

This document shows Mohammad pre-planned his assault and the actions he would take if confronted by a police officer. In this incident Mohammad was confronted by Officer Lopez who had drawn his firearm.

Lopez and witnesses indicated Mohammad advanced on the officers while holding the knife in a threatening manner. This document infers and supports the fact Mohammad was never going to comply with the officer's lawful commands to drop the weapon or get down on the ground. Mohammad's actions clearly showed he had no intention of submitting to arrest or dropping his weapon. A photocopy of this document can be located on page 105-106 of the Merced County Sheriff's report.

#### Administrative Interviews

On November 4, 2015 at approximately 1830 hours, Detective Jack Kelly, UC Berkeley Police Department at my request contacted Christina Petricca who was the PORAC LDF attorney representing and Lopez. He requested to set up an administrative interview for both officers to be conducted on November 5, 2015 at the UC Merced Police Department. Ms. Petricca agreed to arrange the interviews but was hesitant about having the officers participate in a second interview as they had voluntarily provided statements to the Merced County Sheriff's Department as part of the criminal investigation. Detective Kelly explained we would review the interviews both officers provided to Merced County Sheriff investigators but wanted to ask questions in regards to administrative matters in particular Department General Orders. The interviews were then set up.

## Officer Olaf Lopez

Date/Time of Administrative Interview: November 5, 2015 1400 hours.

Location: UC Merced Police Department

Personnel present: Officer Olaf Lopez, Ms. Christina Petricca of Mastagni Holsteadt Law Firm, Detective Jack Kelly- UC Berkeley Police Department and Lieutenant Kevin McNiff -UCSF Police Department

The interview was recorded via Digital Audio Recorder (DAR). All rules and procedures pursuant to the California Peace Officers Bill of Rights were followed. Prior to the interview Ms. Petricca met with Officer Lopez in a secured private location for approximately 15 minutes. At the request of Ms. Petricca we provided a list of the general questions we planned to ask during the interview.

Ms. Petricca advised us Officer Lopez would be requesting a Lybarger Warning Admonition prior to the questioning. I read the Lybarger Admonition to him. (Copy attached).

Detective Kelly asked Officer Lopez regarding his use of force. Officer Lopez said he was familiar with the UC Merced Police Department Policy # 300 "Use of Force." He said he had read it during his FTO program and again at the department required firearms qualification he completed on September 14, 2015. Officer Lopez said the policy regarding use of force was included in the range qualification.

Officer Lopez explained he contacted Mohammad on the Scholars Lane Bridge. Mohammad did not comply with his orders to drop the knife he was holding. Instead Mohammad advanced at him still holding the knife. Officer Lopez said he feared for his personal safety, safety and others in the area. He believed Mohammad had the present ability to attack them with the knife which could have caused great bodily injury or death. Officer Lopez said he fired his

service pistol at Mohammad in an effort to stop him. The first round struck Mohammad and had little effect on stopping him from advancing while still holding the knife in a menacing manner. Officer Lopez fired the second round from his duty pistol and Mohammad stopped and fell to the ground. Officer Lopez was aware of his backdrop and stopped firing after Mohammad went down.

In regards to UC Merced Police Department Policy # 310.4.1(b) "Duties of Initial Officer/Supervisor on Scene- Take all reasonable steps to obtain emergency medical attention for all apparently injured individuals."

Detective Kelly asked Officer Lopez what he did after he shot Mohammad. Officer Lopez stated he notified UC Merced Police Dispatch immediately via his police radio that shots had been fired the suspect (Mohammad) was in custody and he needed "Riggs Code Three." He explained Riggs is the contracted paramedic and ambulance service for Merced County. He said dispatch advised the paramedics and ambulance were enroute. He said he and kept other students and staff away from their location on the bridge and ensured other responding units attended to the stabbing victims.

Officer Lopez was asked if he was carrying his department issued Sig Sauer Model 226 .40 pistol during the incident. He said he was. He said the service pistol was loaded with department issued ammunition.

Ms. Petricca said she would provide a copy of the recorded interview Officer Lopez provided to Merced Sheriff's Department detectives. She wanted the questioning limited. Officer Lopez and Ms. Petricca agreed to participate in additional interviews, or provide written responses, if additional questions or clarification was needed to complete this administrative investigation.

(It should be noted that the information and responses Officer Lopez provided during the administrative interview were consistent with the information and responses he provided during his voluntary statement to Merced Sheriff's Department detectives.)

pistol from the trunk.

10 minutes. At the request of Ms. Petricca we provided a list of the general questions we planned to ask during the interview. Ms. Petricca advised us would be requesting a Lybarger Warning Admonition prior to the questioning. I read the Lybarger Admonition to him. (Copy attached). advised us that he assigned to be Officer Lopez's field training officer at the time of the incident. He advised us that he was in plain clothes as per the "shadow" phase of field training. He advised that Officer Lopez was on his final day of field training. He stated that he was working on an alarm at the Kolligan library. He stated that shortly after working on the alarms, emergency traffic was transmitted regarding a suspect responsible for a stabbing. He also stated that the suspect was observed by both Officer Lopez and himself running west on Scholars Lane. He said that they both gave chase on foot and advised dispatch of their observations. He stated that when they caught up with the suspect on the bridge, the suspect advanced towards both officers. stated that he observed a large knife in the suspects hand and feared for his and Officer Lopez's safety. stated that he did not have his departmental issued firearm on his person. He stated that Lopez fired his weapon two times, causing the suspect to fall to the ground. He also stated that he was unable to broadcast on his radio but did hear Lopez notify dispatch of the incident and requested medical assistance for the suspect. He believed his transmission was "covered" by the radio transmission of Officer Lopez. said he handcuffed Mohammad and checked for vital signs (breathing and a pulse) with negative results. He stayed with Officer Lopez on the bridge. He called Sergeant George Gongora using his cellular phone and told Sergeant Gongora about the shooting/stabbing. said he requested that Sergeant Gongora immediately respond to the campus. Detective Kelly asked about not having his firearm on his person during this incident. said he had reported for work prior to the beginning of his shift. He was in the office and dispatch advised the alarm was going off. He had worked on resolving the malfunctioning alarm the day before and knew as a result several doors would be locked. He decided to drive a patrol car up to the library and try to reset the alarm himself. He said his pistol and safety equipment were in a duffle type bag. He placed the bag and his pistol in the trunk of the patrol car because he suspected the alarm was false and malfunctioning again. At approximately 0700 hours, he met up with Officer Lopez at the station. Dispatch advised him the alarm was going off again in the library. He and Officer Lopez

responded. He did not retrieve his pistol from the trunk and they responded. When the call of the stabbing came out over the radio he did not have time to retrieve his

and Ms. Petricca agreed to participate in additional interviews, or provide written responses, if additional questions or clarification was needed to complete this administrative investigation.

(It should be noted that the information and responses provided during the administrative interview were consistent with the information and responses he provided during his voluntary statement to Merced Sheriff's Department detectives.)

## **Findings**

The Merced County Sheriff's Report # 2015-0038655 included witness statements and forensic evidence which supports Officer Lopez discharging his weapon at Mohammad in defense of his life. There is nothing to contradict the officers' statements regarding what they saw and did relating to this incident.

The UC Merced Police Department dispatch records and recordings are consistent with the officers' statements and actions.

At this point, I believe that Officer Lopez was in compliance with the UC Merced Department of Public Safety- Department Policies captioned below. Officer Lopez used deadly force to affect the arrest of a dangerous felon and protect his and others' lives.

UC Merced Department of Public Safety Policy Manual, Policy # 300 Use Of Force and all subsections contained within. (In Compliance)

UC Merced Department of Public Safety Policy Manual, Policy # 302 Deadly Force Review and all subsections contained within. (In Compliance)

UC Merced Department of Public Safety Policy Manual, Policy # 306 Handcuffing and Restraints and all subsections contained within.

(In Compliance)

UC Merced Department of Public Safety Policy Manual, Policy # 310 Officer Involved Shootings and Deaths and all subsections contained within.

(In Compliance)

UC Merced Department of Public Safety Policy Manual, Policy # 312 Firearms and all subsections contained within. (In Compliance)

## Merced County District Attorney's Office Findings

On December 2, 2015 Merced County District Attorney Larry D. Morse II sent a letter to Chief Albert Vasquez. The letter contained the findings regarding the criminal investigation conducted by the Merced County District Attorney's office, Merced County Sheriff's Department, Merced County Coroners' Office and UC Merced Police Department.

District Attorney Larry D. Morse concluded Officer Olaf Lopez was justified in his actions and there are no anticipated further actions by his office.

Officer Lopez was determined to have been justified in the officer involved shooting of Suspect Fasil Mohammad.

#### Attachments

UC Merced Police Department CAD Records/ Recordings

Merced County Sheriff's Department Incident Report # 2015-0038655

Merced County Coroner's Office Report # 15-38672

Toxicology Report from Central Valley Toxicology Inc. Report of Mohammad's Drug Screen.

Audiotaped recordings of Officers Lopez and interviews, conducted by the Merced County Sheriff's Homicide Unit.

Audiotaped recordings of Officers Lopez and Interviews, conducted by Detective Kelly and Lt. Kevin McNiff.

UC Merced Department of Public Safety Policy Manual, Policy # 300 Use Of Force and all subsection contained within.

UC Merced Department of Public Safety Policy Manual, Policy # 302 **Deadly Force Review** and all subsection contained within.

UC Merced Department of Public Safety Policy Manual, Policy # 306 Handcuffing and Restraints and all subsections contained within.

UC Merced Department of Public Safety Policy Manual, Policy # 310 Officer Involved Shootings and Deaths and all subsections contained within.

UC Merced Department of Public Safety Policy Manual, Policy # 312 **Firearms** and all subsections contained within.

December 2, 2015 Letter from Merced County District Attorney Larry Morse II, to Chief Vasquez.

Memorandum received from Officer Brandon Thomas, UC Merced Police Department. Firearms records for Officer Olaf Lopez. Firearms qualification report dated 9-14-15.